IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO.3217 OF 2004

Sujit Bhaurao Kadam. .. .. Petitioner
v/s.
State & ors. .. .. Respondents

Mr.Nitin Mulye with Mr.G.S.Godbole for petitioner.

Mr.R.M.Sawant, G.P. for res.No.1.

Mr.T.N.Subramanium with N.F.Dhilla i/by M/s.Hariani & Co. for respondent No.2.

CORAM : H.L. GOKHALE &
S.C.DHARMADHKARI, JJ.

DATED : 2ND MARCH 2005

P.C. :

1. Heard Mr.Mulye in support of this petition. Mr.Subramanium appears for respondent No.2-college and Mr.Sawant, Government Pleader for respondent No.1.

2. The petitioner is a student who had applied for the admission to the M.B.B.S. Degree course in respondent No.2-college for which admissions were to be completed by 30th September 2004. The petitioner had secured 147 marks in the C.E.T. examination. It is his case that he was

waiting to be informed as to whether he will be admitted in this college. Ultimately he was not admitted inasmuch as, according to the web site of the college, the cut off marks, as declared on 30th September 2004 when admissions closed, were 170. The petitioner later on learnt that three other students, who have been joined as respondent Nos.7, 8 and 9, were admitted to this college, though they had lesser marks than the petitioner. These respondent Nos.7, 8 and 9 had 143, 139 and 131 marks, respectively. Therefore, this petition has been filed making a grievance that the petitioner has been wrongly denied the admission.

3. An affidavit-in-reply has been filed by one Shri Vinayak Vasant Dewoolkar, who is the Dean of respondent No.2-college. In para-k of this reply, it has been stated that on 30th September 2004, which was the last date for admission, there were three vacancies. On 29th September 2004, a notice was put up on the board that those who are interested in the admissions, should approach the college between 11.00 a.m. and 4.00 p.m. On 30th September 2004, three students approached and though they had lesser marks they came to be admitted in view of the fact that 30th September

2004 was the last date.

4. Mr.Mulye appearing for the petitioner submits that this defence should not be accepted. The petitioner stays far away at Nanded. As per the web site, the cut off marks were 170. So if anybody with lesser marks was to be admitted, respondent No.2 ought to have gone as per the seniority in the waiting list. It has not gone accordingly and, therefore, admissions of the last admitted students be cancelled and the petitioner be admitted.

5. Mr.Subramanium, learned Counsel appearing for respondent No.2-college, has relied upon the aforesaid reply. He has submitted that what is disclosed in the web site is not false. Even the last student above these three students, as per the list of students admitted for MBBS course, is shown as having 170 marks. This is a situation which arose on the last date because some students, though higher up in the list, were not taking the admission. The college had to fill those three seats, otherwise they would have lapsed. Therefore, the notice was put up and the three students were admitted.

6. We have considered the submissions of both the Counsel. Though we quite see the agony of the petitioner, this is a situation which has arisen on the last date of admission. This is not something which we could say is mala fide, intentional or motivated to admit the students who were otherwise not deserving. The college has given an explanation and we have no reason not to accept the same.

7. In the circumstances, the petition is rejected.

(H.L. GOKHALE, J.)

(S.C.DHARMADHIKARI, J.)